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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,378	01/05/2006	Pieter Gijssman	4662-123	4400
23117 7590 04/20/2009 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
NGUYEN, VU ANH				
ART UNIT		PAPER NUMBER		
1796				
MAIL DATE		DELIVERY MODE		
04/20/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/563,378

**Applicant(s)**

GIJSMAN ET AL.

**Examiner**

Vu Nguyen

**Art Unit**

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-14 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6 is/are rejected.
- 7) ☒ Claim(s) 7-14 and 16-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/17/2009 has been entered.

### ***Response to Amendment***

2. Acknowledgement is made of the Amendment filed 03/17/2009, wherein claims 1 and 6 have been amended and claim 5 has been cancelled. Claims 1-4, 6-14 and 16-20 are pending in this application.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tung et al. (US 2003/0027912) in view of Presenz et al. (US 2003/0091823).

6. Corresponding to the limitations set forth in these claims, Tung et al. (Tung, hereafter) teaches a process for preparing a composition used to mold to form bottles [0039-0040], said process comprising preparing a masterbatch comprising a thermoplastic resin and iron particles followed by melt-blending the masterbatch with the base resin [0033 & 0070]. The iron particles have a plurality of sizes, ranging from 1 micron to 75 microns (Tables 1-2). The thermoplastic resin comprises polyamides such as nylon 6, nylon 66, nylon 612 and a host of others [0016]. It is noted that nylon 6 is normally a crystalline polyamide having a melting point over 200°C. The amount of the iron particles is 50-2,500 ppm by weight of the resin (Abstract); that is, 0.005-0.25 wt%. However, the amount of iron particles “may be much higher” if haze is not a concerned [0035].

7. It is clear that Tung teaches all the limitations set forth in these claims but fails to teach a non-metallic fibrous reinforcing agent.

8. Presenz et al. (Presenz, hereafter) teaches a method for producing a polyamide molding compound for use in manufacturing bottles [0001-0003, 0019-0020], said method comprising preparing a polyamide polymer in the form of granulate, which is then compounded with an oxygen scavenger such as carboxylic acid salts of iron, cobalt or nickel [0020]. It is also disclosed that the compound can be reinforced with glass fiber if applications in vehicle optics, household appliance, and electrical and electronics components are desired [0019].

9. In light of such teachings, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have included glass fiber in the process taught by Tung so that the process is not limited to just packaging bottles but also to components in vehicle optics, household appliance, and electrical and electronics industries.

#### ***Allowable Subject Matter***

10. Claims 7-14 and 16-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

11. Applicant's arguments, see Remarks (pages 6-11), filed 03/17/2009, with respect to the examiner's assertion in the Office action dated 12/23/2009 that certain allegations made by the applicants in the reply filed 11/21/2009 regarding the teachings of Ohkawa

et al. (US 4,891,399) were not true have been fully considered and are persuasive. Said assertion has been retracted by the examiner.

12. Applicant's arguments with respect to the rejection of claims 1-2, 5-14 and 16-20 under 35 U.S.C. 103(a) over Ohkawa et al. (US 4,891,399) in view of Martens et al. (US 6,350,802) have been fully considered and are persuasive. The rejection has been withdrawn.

13. Applicant's arguments with respect to the rejection of claims 1-4 and 6 under 35 U.S.C. 103(a) over Tung in view of Presenz (above) have been fully considered but they are not persuasive. The applicant alleges that there is no motivation for one skilled in the art to combine the glass fibers taught by Presenz with the composition disclosed by Tung because Presenz provides no reason for using metal powder as a heat stabilizer in fiber reinforced compositions (Remarks, p. 8, top paragraph). Presenz does not need to have teachings which provide a reason for using metal powder as a heat stabilizer in fiber reinforced compositions in order for one of ordinary skill in the art to combine the glass fibers taught by Presenz with the composition disclosed by Tung, especially when a motivation for such combination is given by Presenz as discussed in paragraphs 8 and 9 above.

#### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vu Nguyen whose telephone number is (571)270-5454. The examiner can normally be reached on M-F 7:30-5:00 (Alternating Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on 571-272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Vu Nguyen  
Examiner  
Art Unit 1796

/David Wu/  
Supervisory Patent Examiner, Art Unit 1796